oath be modified to strike antiquated words like ''potentate,'' Mr. Stein told the Los Angeles Times, ''If the oath of [allegiance] is too hard for the immigrants to understand . . . we're admitting the wrong immigrants.''

In the debate over immigration policy, no single group has received more attention than FAIR, a Washington-based nonprofit that claims a membership of 70,000. For close to 20 years, in books, monographs, op-eds and thousands of newspaper stories, FAIR has made the case for tighter national borders. And while the group's goal seems clear enough—to curtail immigration into the U.S.—its ideology is harder to pin down. FAIR's supporters include both the conservative magazine National Review and former Colorado Gov. Richard Lamm, a Democrat; Pat Buchanan as well as Eugene McCarthy. Where does FAIR stand politically? It's hard to say, says Mr. Stein: ''Immigration's weird. It has weird politics.''

IN FAVOR OF INFANTICIDE

Certainly FAIR does. Consider the group's connection to Garrett Hardin, a University of California biologist who became moderately famous in the 1960s for his essay ''The Tragedy of the Commons,'' a polemic against population growth and Americans' ''freedom to breed.'' Mr. Hardin, now in his 80s, was for many years one of the more active members of FAIR's board of directors, writing and speaking extensively under the group's auspices. He is now a board member emeritus, and his ideas are still influential at FAIR; just this spring, Mr. Stein quoted ''noted immigration scholar and thinker Garrett Hardin'' in testimony before the Senate.

What are Garrett Hardin's ideas? ''Sending food to Ethiopia does more harm than good,'' he explained in a 1992 interview with Omni magazine. Giving starving Africans enough to eat, Mr. Hardin argued, will only ''encourage population growth.'' His views got less savory from there. In the same interview, the ''noted immigration scholar'' went on to criticize China's notoriously coercive population control programs on the grounds they are not strict enough. He also argued against reducing infant mortality in undeveloped nations and came out foursquare in favor of infanticide (''in the historical context,'' as the Omni reporter put it), which he declared ''an effective population control.''

''In all societies practicing infanticide,'' Mr. Hardin explained to the reporter, who happened to be five months pregnant at the time, ''the child is killed within minutes after birth, before bonding can occur.'' Not surprisingly, Mr. Hardin wasn't shy about his enthusiastically pro-choice views: ''A fetus is of so little value, there's no point in worrying about it.''

What does eliminating children have to do with immigration? According to Mr. Hardin, just about everything. ''Because widespread disease and famine no longer exist, we have to find another means to stop population increases,'' he explained. ''The quickest, easiest and most effective form of population control in the U.S., that I support wholeheartedly, is to end immigration.''

At FAIR, Mr. Hardin's views are considered well within the pale. Founded in 1979 by a Michigan ophthalmologist named John Tanton, FAIR has from its inception been heavily influenced by the now-discredited theories of Thomas Malthus, an 18th-century English clergyman who predicted that the world's food supply would soon fail to keep pace with its rising population. During the 1970s, Dr. Tanton, now FAIR's chairman, did his part to reduce world population by founding a local Planned parenthood chapter and running the group Zero Population Growth. With the birthrate of native-born Americans declining, however, Dr. Tanton says he soon realized that the key to population control was reducing immigration. Unless America's borders are sealed, Dr. Tanton explained to the Detroit Free Press this March, the country will be overrun with people ''defecating and creating garbage and looking for jobs.'' To this day, FAIR's ''guiding principles'' state that ''the United States should make greater efforts to encourage population control.'' Several months ago, the group organized a ''bicentennial event'' to commemorate Malthus's ''Essay on the Principle of Population.''

Mr. Stein, the organization's current executive director, doesn't deny that Malthusian fears of overpopulation are ''central'' to FAIR's mission. Nor does he flinch when confronted with Mr. Hardin's views of killing newborns. Instead, Mr. Stein defends Mr. Hardin by pointing out that his colleague has never supported ''involuntary, coercive infanticide.'' (As opposed to the voluntary kind?) As for the Chinese government's well-documented campaign of forced abortions and sterilization, Mr. Stein describes it as an ''international family-planning program.''

Perhaps most telling, Mr. Stein appears to embrace Mr. Hardin's long-standing support of eugenics. In his interview with Omni, Mr. Hardin expressed alarm about ''the next generation of breeders'' now reproducing uncontrollably ''in Third world countries.'' The problem, according to Mr. Hardin, is not simply that there are too many people in the world, but that there are too many of the wrong kind of people. As he put it: ''It would be better to encourage the breeding of more intelligent people rather than the less intelligent.'' Asked to comment on Mr. Hardin's statement, Mr. Stein doesn't even pause. ''Yeah, so what?'' he replies. ''What is your problem with that? Should we be subsidizing people with low IQs to have as many children as possible, and not subsidizing those with high ones?''

Several years ago FAIR was forced to defend itself against charges of racism when it was revealed that the organization had received more than $600,000 from the Pioneer Fund, a foundation established in 1937 to support ''research in heredity and eugenics.'' Mr. Stein did his best at the time to downplay Pioneer's nasty reputation. ''My job is to get every dime of Pioneer's money,'' he told a reporter in 1993. But an unpleasant odor remained.

FAIR also has repeatedly been accused of hostility toward Hispanics and the Catholic Church. Mr. Stein claims the charges are nothing more than ''orchestrated attacks from some of these fervent, out-of-control zealots on the so-called religious right.'' (And, he warned me, I had better not imply otherwise: ''I will call you at home and I'll give your wife my opinion of the article if I don't like it,'' he said heatedly.) But Mr. Stein does little to disprove his critics. In one widely quoted outburst, he suggested—that certain immigrant groups are engaged in ''competitive breeding.'' He told me: ''Certainly we would encourage people in other countries to have small families. Otherwise they'll all be coming here, because there's no room at the Vatican.''

There are reasonable critics of immigration, but Dan Stein is not one of them. Which makes it all the more puzzling that a number of otherwise sober-minded conservatives seem to be making common cause with Mr. Stein and FAIR. According to National Review editor John O'Sullivan, FAIR, ''until very recently, never saw the political right as sympathetic to the cause. That was an obvious error.'' An error Mr. O'Sullivan has done his best to correct: Over the past several years, National Review has touted FAIR's positions in its editorials and published several articles by FAIR employees.

'THESE CENTRAL AMERICANS'

FAIR itself has made a conscious play for the support of social conservatives, running ads that blame immigration for ''multiculturalism,'' ''multilingualism,'' ''increasing ethnic tension'' and ''middle-class flight.'' Mr. Stein claims that many immigrants are left-wing ideologues, making conservatives FAIR's logical allies. ''Immigrants don't come all church-loving, freedom-loving, God-fearing,'' he says. ''Some of them firmly believe in socialist or redistributionist ideas. Many of them hate America, hate everything the United States stands for. Talk to some of these Central Americans.''

Two years ago Insight, a magazine published by the conservative Washington Times, referred to ''the conservative Federation for American Immigration Reform.'' And last year Republican strategist Paul Weyrich allowed FAIR to co-produce more than 50 hour-long programs dealing with immigration for National Empowerment Television, his conservative network. Clearly, FAIR's overtures to the right are paying off. But do conservatives who embrace FAIR know all they should about the object of their affections?

EXECUTIVE SESSION

NOMINATION OF CHARLES J. SIRAGUSA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NEW YORK

The PRESIDING OFFICER (Mr. THOMAS). Under the previous order, the clerk will report the Executive Order No. 324.

The legislative clerk read the nomination of Charles J. Siragusa, of New York, to be U.S. district judge for the Western District of New York.

The Senate continued with the consideration of the nomination.

Mr. LEAHY. Mr. President, I note that we are soon going to vote on the nomination of Charles J. Siragusa to be a judge of the U.S. district court for the Western District of New York.

The judge has the highest rating possible from the ABA. He was unanimously reported by the Judiciary Committee. He was a prosecutor. I commend him and the others.

This morning the majority leader has decided to call up the nomination of Charles Siragusa to the U.S. District Court for the Western District of New York. I expect this rollcall vote to be much like the last seven in which a unanimous Senate approves a well-qualified judicial nomination.

As I stated, Judge Siragusa received the highest rating possible from the ABA. He was unanimously reported by the Judiciary Committee along with others who remain on the Senate calendar awaiting action. He is supported by Senators MOYNIHAN and D'AMATO.

Judge Siragusa served as an assistant district attorney for the Monroe County district attorney's office in Rochester, NY, for 15 years from 1977 to 1992 and is currently a judge on the New York State Supreme Court. He has been the recipient of numerous legal awards, including the 1996 Recognition

Award from the Monroe County Magistrates Association. He has served as a volunteer member of the Families and Friends of Murdered Children and Victims of Violence advisory board since 1995.

I congratulate Judge Siragusa, his wife and family on this day and look forward to his service on the U.S. district court.

But I would also note, we had time set aside for debate on this. And we continue to have judges who are held up silently, and then we cannot vote on them.

Margaret Morrow of California is an example of this. We have spent far more time on quorum calls this year than we have on any debate of Margaret Morrow, except that we find Senators who have press conferences saying that she should not be confirmed or could not be confirmed or will not be confirmed—but nobody wants to bring her nomination to a vote.

She, like the judge we will soon confirm, is an extraordinarily well-qualified nominee. She does have one difference. She is a woman. And I do not know why this woman, who has been the president of the California Bar Association, one of the most prestigious positions any lawyer has ever received, as well as the L.A. bar, why this woman is continuously blocked.

Frankly, I could find no other reason than her gender. And I think it is shocking. I think it is a shame.

While I am encouraged that the Senate is today proceeding with the confirmation of a judicial nominee, there remains no excuse for the Senate's delay with respect the more than 50 other judicial nominations sent by the President. The Senate should me moving more promptly to fill the vacancies plaguing the federal courts. Twenty-three confirmations in a year in which we have witnessed 115 vacancies is not fulfilling the Senate's constitutional responsibility.

At the end of Senator HATCH's first year chairing the Committee, 1995, the Senate adjourned having confirmed 58 judicial nominations and leaving only 49 vacancies. This year the Senate has confirmed less than half of the number confirmed in 1995 but will adjourn leaving almost twice as many judgeships vacant.

At the snail's pace that the Senate is proceeding with judicial nominations this year, we are not even keeping up with attrition. When Congress adjourned last year, there were 64 vacancies on the Federal bench. In the last 10 months, another 50 vacancies have occurred. Thus, after the confirmation of 23 judges in 10 months, there has been a net increase of 28 vacancies, an increase of almost 50 percent in the number of current Federal judicial vacancies.

Judicial vacancies have been increasing, not decreasing, over the course of this year and therein lies the vacancy crisis. The Chief Justice of the United States Supreme Court has called the rising number of vacancies ''the most immediate problem we face in the Federal judiciary.''

I have commended Senator HATCH for scheduling 2 days of confirmation hearings for judicial nominees this week. Unfortunately, that brought to only eight the total number of confirmation hearings for judicial nominees held all year, not even one a month.

The Judiciary Committee still has pending before it over 30 nominees in need of a hearing from among the 73 nominations sent to the Senate by the President during this Congress. From the first day of this session of Congress, this committee has never had pending before it fewer than 20 judicial nominees for hearings. The committee's backlog had doubled to more than 40.

There is no excuse for the Judiciary Committee's delay in considering the nominations of such outstanding individuals as Professor William A. Fletcher, Judge James A. Beaty, Jr., Judge Richard A. Paez, Ms. M. Margaret McKeown, and Ms. Susan Oki Mollway, to name just a few of the outstanding nominees who have all been pending all year without so much as a hearing. Professor Fletcher and Ms. Mollway had both been favorably reported last year. Judge Paez had a hearing last year but has been passed over so far this year. Professor Fletcher, Judge Paez and Ms. McKeown are all nominees for judicial emergency vacancies on the Ninth Circuit, as well.

The committee still has pending before it 10 nominees who were first nominated during the last Congress, including five who have been pending since 1995. Thus, while I am delighted that we are moving more promptly with respect to certain nominees, I remain concerned about all vacancies and all nominees.

Since no regular executive business Meeting of the Judiciary Committee was held this week and none has yet been noticed for next week, which may be our last before adjournment, the committee may not have an opportunity to report any of the 13 fine judicial nominees who participated in hearings this week or the nominations of Clarence Sundram or Judge Sonia Sotomayor or, for that matter, the nomination of Bill Lee to be Assistant Attorney General for the Civil Rights Division.

I have urged those who have been stalling the consideration of these fine women and men to reconsider and to work with us to have the committee and the Senate fulfill its constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges. The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing more critical by the day.

A good example of the continuing stall is the long-pending nomination of Margaret Morrow. The extremist attacks on Margaret Morrow are puzzling—not only to those of us in the Senate who know her record but to those who know her best in California, including many Republicans. They cannot fathom why a few Senators have decided to target someone as well-qualified and as moderate as she is.

Anthony Lewis asked the question in a column in The New York Times earlier this week: ''Why [are some] trying to frighten conservatives with talk of nonexistent liberal activist Clinton judges?'' Those who start a witch hunt, want to find a witch—even if they have to contort the facts and destroy a good person in the process. That seems to be what is going on with this nomination as opponents of this administration are seeking to construct a straw woman in the place of the real Margaret Morrow. She does not subscribe to an activist judicial philosophy and I am confident that as a district court judge would apply the law consistent with precedents established by the U.S. Supreme Court, the court of appeals and judicial precedent.

With respect to the issue of judicial activism, we have the nominee's views. She told the committee: ''The specific role of a trial judge is to apply the law as enacted by Congress and interpreted by the Supreme Court and courts of appeals. His or her role is not to 'make law.''' She also noted:

> Given the restrictions of the case and controversy requirement, and the limited nature of legal remedies available, the courts are ill equipped to resolve the broad problems facing our society, and should not undertake to do so. That is the job of the legislative and executive branches in our constitutional structure.

Margaret Morrow was the first woman president of the California Bar Association and also a past president of the Los Angeles County Bar Association. She is an exceptionally well-qualified nominee who is currently a partner at Arnold & Porter and has practiced for 23 years. She is supported by Los Angeles' Republican Mayor Richard Riordan and by Robert Bonner, the former head of DEA under a Republican administration. Representative JAMES ROGAN attended her second confirmation hearing to endorse her.

Margaret Morrow has devoted her career to the law, to getting women involved in the practice of law and to making lawyers more responsive and responsible. Her good works should not be punished. Her public service ought not be grounds for delay. She does not deserve this treatment. This type of treatment will drive good people away from Government service.

The president of the Woman Lawyers Association of Los Angeles, the president of the Women's Legal Defense Fund, the president of the Los Angeles County Bar Association, the president of the National Conference of Women's

Bar Association and other distinguished attorneys from the Los Angeles area have all written the Senate in support of the nomination of Margaret Morrow. They write that: ''Margaret Morrow is widely respected by attorneys, judges and community leaders of both parties.'' She ''is exactly the kind of person who should be appointed to such a position and held up as an example to young women across the country.'' I could not agree more.

This nomination has been pending since May 9, 1996. No one can blame President Clinton for the delay in filling this important judgeship. Within 4 months of Judge Gadbois' disability, the President had sent Margaret Morrow's name to the Senate. She had a confirmation hearing and was unanimously reported to the Senate by the Judiciary Committee in June 1996. This was one of a number of nominations caught in the election year shutdown and was not called up for Senate consideration during the rest of that year.

She was renominated on January 7, 1997, the first day of this session of Congress. She had her second confirmation hearing in March. She was then held off the judiciary agenda while she underwent rounds of written questions. When she was finally considered on June 12, she was again favorably reported with the support of Chairman HATCH. She has been left pending on the Senate Executive Calendar for more than 4 months and been passed over, again and again.

Senator HATCH noted in a Senate floor statement on September 29 that he continues to support the nomination of Margaret Morrow and that he will vote for her. He said:

> I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf.

Yesterday Senators ASHCROFT and SESSIONS held a press conference in which they noted their opposition to this nomination. I am glad that the secret holds that had prevented the consideration of this nomination are now over and urge the majority leader to proceed to call up this nomination for a debate and vote without further delay. This is the U.S. Senate, once the greatest deliberative body in the world and the conscience of the Nation. We should proceed to debate this nomination and vote.

Every Senator is free to vote for or against a nominee. What I have not appreciated is the mysterious hold over nominations for months at a time. Now that the sources of the hold have come forward, the Senate should proceed to debate and vote.

I do not oppose a recorded vote on Margaret Morrow any more than I opposed a recorded vote on Frank J. Siragusa, or Algenon Marbley, or Katherine Sweeney Hayden, or Janet C. Hall, or Christopher Droney, or Joseph F. Bataillon, or Frank M. Hull, or Henry Harold Kennedy, Jr., or Merrick B. Garland. In fact, on the last seven roll call votes on judicial nominees preceded that this morning, there has been a cumulative total of one negative vote by a single Senator on one of those seven nominees. Six judges were confirmed by unanimous roll call votes and one was confirmed 98 to one.

Meanwhile, while the Senate fiddles, the people served by the District Court for the Central District of California continue to suffer the effects of this persistent vacancy, one of the dozens of judicial emergency vacancies being perpetuated around the country. This nomination has been held up so long that the vacancy has now extended to more than 18 months and is designated a judicial emergency vacancy by the Administrative Office of the United States Courts.

This is a district court with over 300 cases that have been pending for longer than three years and in which the time for disposing of criminal felony cases and the number of cases filed increased over the last year. Judges in this district handle approximately 400 cases a year, including somewhere between 40 and 50 criminal felony cases. Still this judicial vacancy is being perpetuated by the refusal to vote on this well-qualified nominee.

I fear that the nomination of Margaret Morrow has become a fund raising ploy for the extreme right wing. This past weekend we learned that a $1.4 million fund raising and lobbying effort is underway to try to perpetuate the judicial vacancy crisis and continue the partisan and ideological stall on Senate consideration of much-needed judges.

I understand that big donors are solicited with promises of intimate dinners with leading conservative elected and public figures closely involved with the judicial confirmation process and that Senators appear on a videotape being used as an integral part of this opposition effort.

Those pressing this effort complain about what they see as the failure of the U.S. Senate to block the appointment of judges to the Federal bench. The American people, litigants, prosecutors, and judges have just the opposite complaint—that the perpetuation of judicial vacancies is affecting the administration of justice and rendering our laws empty promises.

It is sad that this effort is premised on the slanted portrayal of decisions, many of which were decided by judges appointed by Republican Presidents. I have spoken before about the dangers of characterizing isolated decisions to stir up anger against the judiciary. Short-term monetary or political gain is not worth the price.

This fund raising campaign seems to extend back over the course of the year but has only become public with reports in the Los Angeles Times and New York Times over last weekend. Those who delight in taking credit for having killed, judicial nominees last year continue their misguided efforts to the detriment of effective law enforcement and civil justice. This extreme right-wing fund raising campaign to kill qualified judicial nominations is wrong.

Targeting such a well-qualified nominee as Margaret Morrow is an example of just how wrong this scheme is. I believe all would agree that it is time for the full Senate to debate this nomination and vote on it. I understand that Senator ASHCROFT welcomed such a debate at his press conference yesterday. I have looked forward to that debate for some time. I ask again, as I have done repeatedly over the last several months, why not now, why not today, why not this week?

I yield the floor.

Mr. MOYNIHAN. Mr. President, in a few moments the Senate will vote to confirm a most able candidate for U.S. District Judge for the Western District of New York. Charles Joseph Siragusa was western New York's most experienced prosecutor who became its most admired supreme court judge. We now have the opportunity to bring his considerable talents to the Federal bench.

I had the honor of recommending Judge Siragusa to President Clinton on May 14, 1997. He enjoys the full support of my friend and colleague, Senator D'AMATO, and the unanimous approval of the Committee on the Judiciary.

Might I note that my judicial screening panel interviewed more than 20 applicants to fill the vacancy that resulted when Judge Michael A. Telesca took senior status. There were, as one might have expected, many splendid candidates. However, Judge Charles J. Siragusa stood out.

Judge Siragusa has served with great distinction in the Seventh Judicial District. He was elected to the State supreme court in 1992, following 15 years as a prosecutor with the Monroe County district attorney's office. In that capacity he tried over 100 felonies and was involved in a number of significant criminal cases including the prosecution of Arthur J. Shawcross, a serial killer responsible for the deaths of 11 women. He received widespread recognition and praise for his work on that case.

A native of Rochester, Judge Siragusa was graduated from LeMoyne College in DeWitt, NY, in 1969. He received his law degree from Albany Law School in 1976 and has been a member of the New York State Bar since 1977.

Judge Charles J. Siragusa is a man of great intelligence and unwavering principle. I am confident that, upon confirmation, he will serve with honor and distinction.

Mr. HATCH. Mr. President, it is with great pleasure that I endorse the nomination of Charles Siragusa who has been nominated by President Clinton for the position of U.S. District Judge for the Western District of New York.

Judge Siragusa comes before the Senate with an already distinguished

record having served on the New York supreme court since 1993. In that position, he has presided over both civil cases and criminal cases. He is currently assigned full time to the criminal division.

Judge Siragusa is not only a seasoned jurist, but he is also an experienced trial lawyer. He has extensive litigation experience having first been an assistant district attorney and then later serving as a first assistant district attorney in the Monroe County district attorney office from 1977 to 1992. I am sure my colleagues will agree that he is well qualified for a position on the Federal bench for many reasons not the least of which because he is someone who has had the practical experience of having tried approximately 100 cases as lead trial counsel. I might add that 95 percent of those cases were jury trials and many of them involved homicides.

Judge Siragusa also brings the experience of having been a teacher of sixth graders and junior high school from 1969 to 1973, in Rochester, NY. I am sure that job taught him great patience—a skill that might come in handy someday on the Federal bench.

He is also active in his community. Judge Siragusa is a member of numerous organizations including the Jewish Community Center; the New York District Attorney Association; the Monroe County Bar; the Rochester Inn of Court; Jury Advisory Commission; and the Association Justices Supreme Court in New York.

Judge Siragusa graduated cum laude from LeMoyne College in 1969 having earned a bachelor of arts sociology, and his juris doctorate from Albany Law School in 1976.

He has two published writings, in addition to his other than judicial opinions—one entitled ''Prosecution of a Serial Killer;'' and the other being, ''View from the Bench'' that appeared in Rochesterian Magazine.

I would also like to add that Judge Siragusa's nomination might have been before the Senate sooner, but for the fact that when the Judiciary Committee first tried to schedule a hearing on his nomination my staff had a bit of trouble locating him. We later learned that he was in Aruba on his honeymoon. Congratulations, Judge Siragusa.

I am confident that Judge Siragusa will be a worthy addition to the bench of the Federal District Court in the Western District of New York. I am very pleased that the Senate has scheduled a vote on his nomination, which I am happy to support. He is also supported by Senator MOYNIHAN and Senator D'AMATO. I urge my colleagues to do the same.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, on the matter of the pending nomination, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Charles J. Siragusa, of New York, to be U.S. District Judge for the Western District of New York? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 286 Ex.]

YEAS—98

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Breaux	Gregg	Reed
Brownback	Hagel	Reid
Bryan	Hatch	Robb
Bumpers	Helms	Roberts
Burns	Hollings	Rockefeller
Byrd	Hutchinson	Roth
Campbell	Hutchison	Santorum
Chafee	Inhofe	Sarbanes
Cleland	Inouye	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kempthorne	Smith (OR)
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Landrieu	Thurmond
Domenici	Lautenberg	Torricelli
Dorgan	Leahy	Warner
Durbin	Levin	Wellstone
Enzi	Lieberman	Wyden
Faircloth	Lott	

NOT VOTING—2

Coats	Harkin

The nomination was confirmed.

DISAPPROVAL ACT

The PRESIDING OFFICER. Under the previous order, the Senate now will proceed to the consideration of S. 1292, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1292) disapproving the cancellations transmitted by the President on October 6, 1997, regarding Public Law 105–45.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with an amendment on page 2, line 3, to strike ''97–15, 97–16.''

Mr. STEVENS. Mr. President, there are 10 hours, as I understand it, on this bill. I do not have any knowledge yet as to how much time we will take. I will give myself such time as I need in the beginning of this statement.

On October 6, the President impounded funds for 38 projects contained in the fiscal year 1998 military construction bill, which totaled $287 million. Let me first take a moment to review the merits of this bill.

Mr. President, in June, President Clinton reached a budget agreement with the bipartisan leadership of the Congress. That agreement provided for an increase of $2.6 billion for national defense over the amount the President had requested for the budget in the fiscal year 1998. The President's action on the military construction bill, in my judgment, reneges on the budget agreement that he reached with the Congress. Congress was given spending caps. We then allocated that within the appropriations process, and the Appropriations Committee presented the Senate with 13 appropriations bills consistent with the spirit, terms, and limits of the revised budget.

Mr. President, I state to the Senate, without any chance of being corrected, that the Senator from West Virginia and I have done our utmost to live within the terms of the budget agreement, although we didn't agree with it and we weren't present at the time it was made. Now, we have upheld the congressional commitment to the President. Simply stated, the President did not when he used the line-item veto on this bill.

After consultation with Senator BYRD, the committee held a hearing 3 weeks ago to evaluate the President's use of the line-item authority and review the status of these projects for military construction. We asked military witnesses from three services to testify. They told us there were valid requirements for each of these projects, Mr. President. They were mission-essential to the U.S. military. They also informed the Appropriations Committee that each of these projects was, in fact, executable during the coming fiscal year.

Now, these projects clearly did not meet the criteria intended by Congress to eliminate wasteful or unnecessary spending. Those were the tests under the line-item veto law. Instead, the President chose to cancel a project because of three criteria that were announced after the action taken by the President. First, he would veto a bill if it was not in the President's 1998 budget request and no design work had been initiated and it did not substantially contribute to the well-being and quality of life of the men and women in the armed services.

Senator BYRD is going to speak at length on this. He is an expert in this area, and I don't want to go into the area he will cover. It is very clear that that was not within the terms of the bill passed, the law that the President signed, which set forth the process for using the line-item veto. At our Appropriations Committee hearing, it was apparent that, in fact, some design work had been initiated on most of these projects—not all of them, but most of them.

The generals that were before us confirmed what many of us already knew.